

**THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA**

Monday, January 3, 2000

9:00 A.M. Worksession

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners William V. Bell, Joe W. Bowser, and Becky M. Heron

Absent: None

Presider: Chairman Black

Statement by William V. "Bill" Bell

Commissioner Bell requested that this statement be recorded verbatim in the official minutes.

For Immediate Release

Contact Person

William V. "Bill" Bell: 1003 Huntsman Drive, Durham, NC 27713-2384; 919-544-5597 (home phone), 919-544-4597 (business phone); 919-544-4609 (business fax); and billbell@udic.org (e-mail).

Statement by William V. "Bill" Bell

About six months ago, after seriously considering my present responsibilities, challenges, and available time, I decided that I will not run for any elected office this year. I believe that this decision is in the best interests of my constituents, my family, and myself. I will complete my current term of office which ends in December 2000.

I have been very privileged to have been elected as a Durham County Commissioner in each election of Durham County Commissioners held between 1972 and 1992, and in 1996 and 1998. I remain grateful to my supporters who chose me as one of their representatives on the Durham Board of County Commissioners. I have tried to represent them and all of my constituents as well as I could.

I have been deeply gratified by the accomplishments of the Commissioners during my tenure as a Commissioner, and especially so between 1982 and 1994, when I was privileged to serve as the board chairman. These accomplishments during my chairmanship included merging the Durham City and the Durham County public schools in 1992, broadening minority participation in county government, furthering sound economic development in the county, and attaining the county's first AAA Municipal Bond Ratings from Moody's and from Standard & Poors. Such ratings reduce substantially the interest due on bonds, thereby saving moneys for taxpayers. As my fellow commissioners know, very few counties receive such ratings. For example, in 1998, only four of North Carolina's 100 counties, and only 39 of the 3,140 counties in the United States were so rated by Standard & Poors.

I have been privileged to have served with Commissioners who have brought great individual strengths, experiences, and talents to the Durham Board of County Commissioners. They have well-served Durham County. I also have been privileged to serve with four different county managers, all of whom have been quite capable in their own right. Durham County has been fortunate in having a very competent staff under the leadership of good managers: their jobs are tough, but in my opinion, the staff performs admirably and serves with integrity.

None of us, of course, is perfect, and mistakes will be made. But it is extremely important that we who serve Durham County in any official capacity learn from our mistakes, take appropriate ownership of and responsibility for them, and try not to repeat them.

Until my current term of office ends about 11 months from now, I will continue to try to represent Durham County as well as I can. I will continue to focus on being or becoming thoroughly knowledgeable about the issues that the Commissioners will or ought to consider. I hope that I can continue being as accessible as humanly possible to my constituents, and being as candid as possible in all of my dealings with my constituents and my fellow Commissioners.

I also want to say to each of my colleagues that I know differences have cropped up and may well crop up again in our discussions of various issues. I appreciate the fact that we can agree to disagree and that, at times, we have disagreed. But I hope that the processes and outcomes of our legislative and other efforts during my remaining time as a Commissioner will continue to show that we individually and collectively try to act in the best interests of our constituents, and always to do so by firmly adhering to the precepts of equitableness, integrity, and responsibility.

Along with developing a plan to address our capital facility needs, in my opinion, one of the most important issues facing Durham County this year is that of merging the Durham City and County governments. I hope that as many citizens of Durham County as possible will remain or become heavily involved in this issue. I also hope that the

decision ultimately reached about merger will be one that benefits of all our county residents, most of whom are also city residents.

In closing, I again thank all the persons who have supported my political activities through the years, and again acknowledge that, in my judgment, the Commissioners and staff with whom I have served during my tenure as a Commissioner have well-served Durham County.

The County Commissioners and County Manager Thompson made appropriate comments to Commissioner Bell in response to his decision not to seek reelection to the Board of County Commissioners in the November 2000 election.

Citizen Comment—Jack Steer

Mr. Jack Steer requested time on the agenda to make comments to the Commissioners regarding challenges for the coming year.

Mr. Steer, representing the Friends of Durham, passed on some thoughts relative to “Challenges for 2000.” The most important, from a standpoint of voter representation, tax balancing, and maximizing services to residents, is the subject of merger of government entities. The Board has requested citizen committees to undertake the task of reviewing the desirability and feasibility of city/county merger. These committees, every single one, have concluded that merger is both desirable and feasible. It seems to us that we owe it to them to take the next step and work out a structure for the charter commission, and the manner in which that commission is constituted.

The next most important challenge is providing children with an opportunity to succeed even though their home life would seem to prevent that possibility. To succeed will mean taking steps to convince parents that their children stand a far better chance for success in special programs, particularly for children ages 2, 3, and 4. Programs can be developed outside the school system and outside the daycare system that will allow youngsters to succeed at the first levels of school. After that, it is the responsibility of the school system to bring parenting into the issue of child education and resulting success in life.

Citizen Comment—Lois Murphy

Ms. Lois Murphy requested time on the agenda regarding an update on whether the County has determined if water services will be extended to the Santee community.

Mr. E. A. Gooch Jr., 2709 Baptist Road, also urged the Commissioners to extend the water lines to the Santee and Baptist Road areas.

County Manager David F. Thompson gave the Commissioners an executive summary about the water situation along NC 98 and around Falls Lake.

Commissioner Bowser said the Commissioners have been dealing with this water situation for about 2½ years. The Commissioners should move on and do something about this. The City and County should sit down and talk about the problem and resolve the matter.

Chairman Black requested that the County Manager put this water project on the Capital Improvement Program as the first item to be discussed at the worksession in late January.

Commissioner Bowser said the Commissioners should encourage more development in the area so the developers could help bear the cost of the water and sewer lines and so all the citizens would have an adequate water supply.

County Manager Thompson said our goal is the same as the citizens in the area and that is to get a good water supply to the residents in the area if at all possible at a cost effective manner. I hope we can work it out.

Register of Deeds Salary

County Manager David F. Thompson said the recommendation is to set the Register of Deeds' salary at \$60,000 effective December 5, 2000.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the recommendation that the County Manager put forth.

The motion carried unanimously.

This motion does not affect the Register of Deeds currently holding the position.

Durham County Inventory of Important Natural Areas, Plants, and Wildlife, January 2000

Hildegard Ryals, Chairman, Durham Inventory Review Committee, requested the Durham County Inventory of Important Natural Areas, Plants, and Wildlife, Durham NC, January 2000 be placed on the agenda for the Commissioners to receive the Inventory of the Natural Areas and Rare Species of Durham County document.

This new document is a revised and integrated edition of the Inventory of the Natural Areas and Rare Species of Durham County, Robert D. Sutter, 1987 and the subsequent edition to Inventory of the Wildlife Habitats, Movement Corridors, and Rare Animal Population of Durham County, Stephen P. Hall, 1995. These documents represent years

of work by City and County staff, scientists and technical experts, and private citizens of Durham. These inventory efforts have been paid for in part by City/County funds. The Durham Inventory Review Committee was pleased to present this new document officially received and made available for the use of government and the education of the general public.

Resource Person(s): Vice-Chairman Ellen W. Reckhow was available for comments and to answer questions.

County Manager's Recommendation: Receive the document from the Durham Inventory Review Committee and take necessary action at the January 10, 2000 Regular Session.

Chairman Black called on Vice-Chairman Reckhow to make comments about this agenda item. Vice-Chairman Reckhow briefly spoke about the project. She recommended the proposed resolution be put on the January 10, 2000 Regular Session for Board consideration.

Chairman Black recommended the agenda item be moved to the January 10, 2000 Regular Session.

Request From Churches for Action--Phoenix House

On December 14, 1990, Churches for Action entered into a loan agreement with the County of Durham to borrow \$65,000.00 of bond funds to renovate Phoenix House. These funds were generated by a 1990 County Housing Bond Issuance that has been administered by the City Housing Department. The first payment in the amount of \$4,145.00 on the bonds was due January 2, 1994. This included the principal on the bonds of \$3,820.00 together with the loan servicing fee. The first payment was made by Churches for Action, but no further payments have been made. Once the payments were not made, the interest rate which was 0% if the payments were made, became 15% per annum. The amount currently past due is approximately \$79,933.00 with a total amount due of approximately \$118,077.40. Negotiations have been unsuccessful in settling this matter. Churches for Action requested an opportunity to address the Board of Commissioners to ask the County to forgive a portion of the debt.

Resource Person(s): Chuck Kitchen, County Attorney

Chairman Black asked the County Attorney to take the lead on this agenda item since he was representing the Commissioners on this matter.

Chairman Black did not return telephone calls on this matter since it was being handled by the Attorney's office.

Attorney Kitchen gave the Commissioners the following background information:

During the summer, it was discovered and we were informed by the City Housing Department that a deed of trust was in default and that payments had not been made on the Phoenix House. We had a meeting that was scheduled with all interested parties to discuss the matter. We did not get a resolution. It was brought forth and discussed with the Commissioners in Closed Session with the County Attorney. The Commissioners made an offer to settle this matter. The interest was 0 percent and no interest was owed on the money when it was paid back. There was a provision, however, that if a payment was missed the interest rate would go up to 15 percent until it was paid up and current. There was a service fee of 1 percent of the outstanding balance. The first payment was made with the service fee. There has been no payment since then. There was a delayed date of four years after the loan was made until the first payment was made in 1994. No payment was due the first four years. The County Commissioners reduced the interest rate to 3 percent on the note and agreed to forgo the additional interest. That offer was made on September 30, 1999 by a letter to William Small. Mr. Small responded on October 13 and declined that offer. He offered a payment of \$19,100 which would be the amount that would be owed at a 0 percent interest rate without the service fee. There was going to be a split between Churches for Action and Housing for New Hope as to who would be making the payments. The Board did not accept the counter offer. The Board then offered that 3 percent would only be charged on the delinquent payments. The payment due immediately would be \$22,348.50, which Churches for Action had agreed to pay \$19,100.

On November 22, 1999, Attorney Kitchen received a letter from Churches for Action declining that offer to settle. Churches for Action wrote a letter to be heard before this Board. The County holds a second deed of trust at the present time.

Mr. William Small, representing Churches for Action, said that Churches for Action in no way was trying to circumvent the spirit of the deed of trust. He explained to the Commissioners what caused the financial trouble. We have someone to take over the mortgage if we can come to some financial agreement. We want the Commissioners to allow us to bring that debt up to date without penalty. If that is done, Housing for New Hope will have the means within that organization to take over the existing loan and continue the program that has been beneficial to Durham County by taking homeless men from the streets of Durham and making them taxpayers. Mr. Small said he was unaware of the service charges.

The Commissioners asked questions and made comments to which Mr. Small and Chuck Kitchen responded.

Terry Allebaugh gave the Commissioners some information about the Phoenix House structure.

Chairman Black asked the County Attorney to work out a payment plan so no more hardships would be placed on Churches for Action to repay the loan. The 3 percent interest would only run on the delinquent amount.

Vice-Chairman Reckhow said this is a loan, not a grant.

Firearms Litigation

On September 1, 1999, Mayor Pro Tem Howard Clement, presented information from the City of Durham regarding litigation filed by cities against gun manufacturers. In the material, the City Attorney's Office indicated that it would be appropriate to have joint or coordinated litigation by the City and County against the gun industry. Since Mr. Clement's appearance, courts in Cincinnati, Miami, and Bridgeport have dismissed the cases brought by the cities of Cincinnati and Bridgeport and by the County of Miami-Dade. Based on the reasoning in those cases and the limitations placed on governments in North Carolina by the North Carolina Constitution, the County Attorney does not believe a meritorious case is possible in North Carolina against the gun industry by a county.

As indicated in the opinions, several different grounds exist to bar a suit. Most notably, two of the grounds are the prohibition under common law of recovering for public services and the lack of standing to bring a suit for injuries to third parties. Additionally, it is not immediately apparent how a suit would lie in North Carolina against a manufacturer of a product which performs as it is intended when the use of the product is protected by the North Carolina Constitution.

It appears that the sole basis for bringing a suit in North Carolina, which could withstand a motion to dismiss, would be on the basis of *parens patriae*. This is the doctrine in law which allows the state to file a suit to protect the interests of its citizens. Counties in North Carolina cannot file a suit on the basis of *parens patriae*, and this authority is reserved to the State itself. It should also be noted that a bill has been passed by the North Carolina House and is pending in the Senate which would preclude any suit by a local government.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Receive the report of the County Attorney for informational purposes. Based on the information provided by the County Attorney, I cannot recommend bringing forward litigation against the gun industry. This presentation by the County Attorney and the Manager's recommendation is not to imply that the Durham County Board of Commissioners has endorsed this type of litigation in the past. The presentation is in response to a request that the Board had made previously for more information.

Chairman Black said that Council member Howard Clement brought this item to the Commissioners and asked if the Board would join the City of Durham in a lawsuit against gun manufactures.

Council member Clement said he was here to introduce the request for the individuals who are so gracious to appear here with me today. The speakers will provide greater detail about the subject.

Council member Clement introduced the speakers.

Ms. Lisa Price, 2200 N. Lakeshore Drive, Chapel Hill, NC 27514, representing North Carolinians Against Gun Violence Education Fund, read a prepared statement in support of firearms litigation against gun manufacturers. She urged the Durham County Commissioners to join other courageous cities and counties in working through our legal system to make the gun industry responsible and protect our citizens from gun violence.

Tamera Coyne-Beasley, MD, MPH, 5000 Greenview Drive, Durham, NC 27713, spoke in support of litigation against the gun manufacturers.

Reverend Jimmie Hawkins, Covenant Presbyterian Church, 1306 Lincoln Street, representing Religious Coalition for a Nonviolent Durham, spoke about gun violence that occurs in Durham. He urged the Commissioners, on behalf of compassion and caring about the citizens of Durham, take a step to cause those that produce guns to be more responsible for their product.

Reverend Mel Williams, 526 Clarion Drive, Durham, 27705, representing Religious Coalition for a Nonviolent Durham, spoke in support of litigation against the gun manufacturers. He urged the Commissioners to join this lawsuit.

Mr. Clement said we want to sue on behalf of the citizens of Durham County and Durham City for the right to protect our interests. Through the courts is the logical way to go.

Chairman Black called on County Attorney Chuck Kitchen to make remarks about the proposed firearms litigation.

A lengthy discussion was held between the County Attorney and County Commissioners concerning firearm litigation.

Chairman Black asked County Attorney Kitchen to draft a resolution opposing Bill 938 and any other bill that may be forthcoming concerning guns. The resolution and letters should be sent to our Congress members in Washington, DC asking for stronger gun control laws.

Chairman Black requested a letter be written to the Durham Delegation asking the state to pass stronger gun laws relating to the manufacturing of guns, safety issues, and gunlocks.

Chairman Black requested that the Commissioners consider the resolution by their second meeting in January.

Deer Hunting with Dogs

Concerns have been raised by Treyburn subdivision residents about the number of hunters throughout that community who are hunting deer with dogs. The citizens are concerned that an accident could occur as the citizens have indicated that some hunters apparently do not respect the posted "NO HUNTING" signs. Even without the signs, it is illegal to hunt deer with dogs inside Durham County unless the hunter has written permission of the landowner. Violation of the law is a Class 3 misdemeanor. Enforcement of the law has continued to be problematic. The Wildlife Commission has primary enforcement authority; additionally, the Sheriff may also enforce the law. In areas inside the City limits, such as Treyburn, the City Police may enforce the City's ordinance against any hunting. The Durham County Animal Control has, on occasion, picked up some hunting dogs and taken them to the shelter where their owners redeemed the dogs. However, Animal Control does not have the authority to enforce the law; Animal Control may only catch the dogs for running at large, a violation of the Animal Control Ordinance. As to the hunters who choose to violate the law, apparently they either do not know the law or they disregard the law while hunting. It should be noted that the State Wildlife Commission has included the local act in its publication on hunting laws in North Carolina.

Resource Person(s): Angela G. Geadelmann, Assistant County Attorney; Cindy Bailey, Director, Animal Control; Major Andrews, Sheriff's Department; and Captain Morris, Police Department.

County Manager's Recommendation: One of the main notes to make is that it is illegal to hunt deer with dogs in Durham County without the written permission of the landowner. In my opinion, the main question is whether eliminating hunting with dogs completely (as requested by some citizens) will improve enforcement. Staff will be requesting policy guidance on how to address this issue.

Chairman Black commented she received many letters about deer hunting with dogs. She asked the County Attorney to put this agenda item on today's worksession agenda.

Angela Geadelman, Assistant County Attorney, made opening remarks about the problem of deer hunting with dogs in Durham County, especially in the Treyburn subdivision. It is illegal to hunt deer with dogs in Durham County, unless the hunter has written permission from the landowner. This comes from the legislative act House Bill 2003

which was enacted in 1994. The issue is the enforcement of the law. We don't know if the hunters know the law or are ignoring the law.

Tim Sasser, Wildlife Sergeant in Durham, Person, and Granville Counties, was at the meeting to answer questions about hunting deer with dogs in Durham County. He made remarks about the hunting situation in Durham County.

The Commissioners asked several questions and made comments about the hunting problems to which Sergeant Sasser responded.

Ms. Frances Hoffman, 4026 Glenn Road, talked about the problems they have had on their 70-acre sheep farm relative to hunting dogs harassing their sheep. The hunters in many cases cannot distinguish sheep from deer. We have denied hunting on our property, but there is still hunting on the property.

Chairman Black asked County Manager David F. Thompson to ask staff to look at the wording in the deer hunting ordinances and animal control ordinances and to see what kind of legislation we need to ask for in the upcoming legislative session.

Chairman Black referred the matter back to the Manager and Legal Department for consideration and resolution.

Cindy Bailey, Director of Animal Control, spoke about citizens' concerns regarding hunting in the county.

Chairman Black asked if the Commissioners could get legislation to outlaw hunting in Durham County. Mr. Thompson said the staff will check to see if any criminal action is necessary since our staff is being blocked. The roundtable discussion will also be held.

Update on Duncan Floyd and Shooting Activities Occurring on His Property

Receive information regarding Duncan Floyd's use of his property for commercial shooting activities.

In May of this year, the Durham Board of Adjustment heard an appeal by Duncan Floyd regarding the Planning Department's determination that he was operating illegal commercial activities (public shooting range and hunting preserve) on his property which is located on Carpenter Pond Road. The Board of Adjustment denied his appeal.

It appears that Mr. Floyd has resumed the use of his property for commercial activities. Upon receiving complaints from Mr. Floyd's neighbors regarding the use of his property, the County Attorney's Office determined that he had not been served with the Board of Adjustment's Order of Denial. Mr. Floyd did not sign for his certified mail copy of the Order. The Planning Department has delivered the Order to the Sheriff's Department for

service upon Mr. Floyd. Before citations can be issued for a continuing violation, the Board of Adjustment's Order must be served on Mr. Floyd. The Planning Department has indicated that citations will be issued once service of the Order has been made. Zoning Enforcement Officers will monitor the site weekly for compliance. If compliance is not forthcoming, the case will be referred to the County Attorney's Office.

Resource Person(s): Dennis Doty, Zoning Enforcement Officer, and Lowell Siler, Deputy County Attorney

County Manager's Recommendation: Board members have requested this update as they have been contacted by citizens on this issue. No action is required at this point in time.

Vice-Chairman Reckhow called on Dennis Doty, Zoning Enforcement Officer, to update the Commissioners on the status of the shooting activities on Duncan Floyd's property.

Commissioner Heron requested another update on this situation at the Commissioners' Regular Session on January 24, 2000.

Mr. Thomas Hunter, 9949 Kopela Drive, Raleigh, representing the Mayfair subdivision and his mother, said they have been tolerating this activity for over three years. Approximately 1,000 hours and several thousand dollars have been spent on legal expenses directly associated with the hunting and shooting activities on Mr. Floyd's property. Mr. Floyd has evaded, bypassed, and ignored all Durham County ordinances. He urged the Commissioners to take action on this situation.

Ms. Kathleen Jordan, 1212 Kintail Drive, representing the Wexford Homeowners Association, stated that the County should take a more active role in trying to resolve this matter. The County has not pursued this as diligently as they might. The hunting preserve signs are still out there. He cannot have a hunting preserve under the ordinance.

County Manager David F. Thompson said some of the activities and actions of the Legal and Planning Departments have not been followed up on. An update will be given to the Commissioners at the January 24, 2000 Regular Session.

Briefing on Transportation Demand Management Plan

Commission Vice-Chairman Ellen Reckhow, Chairman of a Durham TDM Committee that has been formulating a draft Transportation Demand Management Plan, has requested that an overview be presented to the County Commission at this worksession. This draft plan will also include action strategies for its implementation.

The goal of this briefing is for the Board of County Commissioners to be exposed in depth to the concept of transportation demand management planning, to understand why it is important, and to be brought up to date on the progress that has been made by the

TDM Committee. The Durham TDM Committee is finalizing the draft TDM Plan and Action Strategy to be presented to the Commissioners at the February worksession.

Resource Person(s): Mary Clayton, Parsons Brinckerhoff; Mark Ahrendsen, City of Durham Transportation Department; Mark Gorman, Nortel Networks; and Ellen Reckhow, Vice Chairman.

County Manager's Recommendation: The information provided by Vice-Chairman Reckhow outlines the advantages of transportation demand management planning. No action is required at this point in time.

Vice-Chairman Reckhow introduced the Transportation Demand Management Plan agenda item. Last spring the Commissioners dealt with a large rezoning request on Highway 54. The Commissioners approved a down-scale development with the stipulation that the developers incorporate transportation demand management. At the same time, we did do other things. We committed to a corridor study for the 54/I-40 area and to develop a Transportation Demand Management Plan for Durham County. After a call to the North Carolina Department of Transportation, Vice-Chairman Reckhow received a phone call from Sanford Cross indicating that the state would be willing to help with this project. We convened our first meeting at the Chamber of Commerce. We have been working on this project for six months. We will bring a plan and action strategy to the Board at the Commissioners' Worksession in February.

The purpose of the presentation today is for the Commissioners to get an overview of what a Transportation Demand Management plan (TDM) is, hear about the need for a TDM, and to receive a status report from RTP on their efforts.

Mark Ahrendsen, City of Durham Transportation Department, outlined the status of the road capacity in Durham County and why we need additional measures beyond road construction.

Mr. Ahrendsen explained to the Commissioners what TDM is and how it relates to some of our long-range plans.

Mr. Ahrendsen introduced Sanford Cross, Director of the Public Transportation Division, NCDOT, to tell the Commissioners why TDM is so important to NCDOT and why they want to be involved with this project.

Mr. Cross introduced Mary Clayton with Parsons Brinckerhoff. She explained what has been happening in the area of TDM over the last couple of months.

The Commissioners asked questions to which the resource persons responded.

Mark Gorman, Nortel Networks, has been leading the TDM project in the Research Triangle Park area. He told the Commissioners about the TDM effects that are being carried on in the Research Triangle Park.

Vice-Chairman Reckhow said the next update will be at the February Worksession.

Consideration of a Policy Regarding When It Is Acceptable to Interchange Office Land Use Designations and Multi-family Land Use Designations in Staff Recommendations

Office development and multi-family development are often accepted as substitutable uses in rezoning staff reports. In other words, land designated for office uses in future land use plans has been recommended for rezoning to multi-family and vice versa. This policy should be reconsidered. There is growing concern that the absorption of potential office property for multi-family uses may have negative consequences. On the other hand, the conversion of multi-family property to an office designation does not pose as serious a problem. The Durham City Council adopted a policy on this matter in August. Citizens within the boundaries of the Southeast Small Area Plan asked that the Board of County Commissioners adopt the same policy.

Resource Person(s): Bonnie Estes, Keith Luck, and Norm Standerfer were at the meeting to present the agenda item.

Recommendation: Staff recommends adoption of the policy regarding when the interchange of office and multi-family uses is acceptable.

Ms. Estes presented the Commissioners an overview of this agenda item.

The Commissioners asked questions and made comments to which Ms. Estes responded.

Chairman Black requested this agenda item be moved forward to the consent agenda of the January 10, 2000 Regular Session.

Consideration of a Proposal by the Joint City-County Planning Committee (JCCPC) for Consultant Assistance to Prepare Design Criteria for Durham's Southpoint Subarea of the 54/I-40

In response to a request by the Joint City-County Planning Committee (JCCPC), which was supported by the City Council, a scope of services for urban design assistance for a rapidly developing subarea of the 54/I-40 corridor was developed. It was noted at the JCCPC meeting in December that recent rezoning proposals in the corridor created a need to accelerate the schedule for the 54/I-40 Plan. The Board of Commissioners and City Council desire access to more planning information to better evaluate upcoming

development requests. Consultant assistance and the division of the study area into sub-districts were judged to be the best ways to expedite the process.

Resource Person(s): Bonnie Estes and Norm Standerfer were at the meeting to present the agenda item.

Recommendation: Adoption of the general scope of services to provide design and land use guidelines in the Southpoint subarea.

Ms. Estes presented an overview of this agenda item.

The Commissioners asked questions and made comments about this item. Ms. Estes responded.

The proposed deadline is April 30, 2000 for Area I.

County Manager David F. Thompson recommended the project be paid 50/50 by the City and the County. Funding should come from sources other than contingency at the present time. He suggested that a consulting firm be lined up. The map outline and scope of work should be refined one last time by the City/County Planning Committee. The proposal would not come back to the Commissioners and City Council for final approval.

This proposal would go back to the Joint City/County Planning Committee for further consideration.

Durham County Code of Ethics

From time to time, issues have arisen regarding the ability of Commissioners to vote on issues or take other actions in compliance with the adopted Code of Ethics. When the policy has been applied to certain situations, it has resulted in a conflict between the policy and the General Statutes. G.S. § 153A-44 allows a commissioner to be excused from voting "only upon questions involving his own financial interest or his official conduct." To the extent the Code of Ethics goes beyond this statutory pronouncement, it is unenforceable.

The current Code of Ethics should either be rewritten to comply with the State statutes, or a new Code of Ethics adopted. The Board is requested to consider adopting an aspirational code. An example of such a code is the code adopted by the North Carolina Association of County Commissioners. An aspirational code would have two advantages. First, it would allow a statement of the ethical values of the Board of Commissioners. Second, it would not be in conflict with State law causing confusion regarding questions of ethics and law.

If the Board wishes to pursue such a code change, a new draft code would be prepared and brought back to a future worksession. Otherwise, the current code would be rewritten to comply with applicable statutes.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Decide if an aspirational code will satisfy the expectations of the Board, and if so, direct that a draft of a new code be brought back for discussion.

County Attorney Chuck Kitchen said that in this past year on two or three occasions, the County's Code of Ethics has not really been in compliance with state law. He explained the noncompliance situations.

Vice-Chairman Reckhow suggested the current ethics policy be amended for compatibility with state statute G.S. 153A-44. The appointed boards and commissions use this policy. It provides some broad guidance.

Chairman Black liked the aspirational part of the policy.

County Manager David F. Thompson suggested the current ethics policy be used, deleting things that are not legally enforceable, and do some verbiage that captures the aspirational part of the Code of Ethics similar to the North Carolina County Commissioners' Code of Ethics.

Attorney Kitchen said he will work on the ethics policy and bring it back to a future Worksession for Commissioner consideration.

Board Worksession Date Selection to Discuss the CIP Review Criteria

At the Board's December 6 Worksession, Budget Director Claudia Odom discussed the timeline and framework for the upcoming Capital Improvement Plan (CIP) process. The board discussed the need to have a worksession to discuss the review criteria process. Potential dates are listed below for this meeting. Staff requested Board direction on a meeting date.

January 12	9:00 – 12:00
January 14	9:00 – 12:00
January 20	9:00 – 12:00
January 26	9:00 – 12:00
January 27	9:00 – 12:00
January 28	9:00 – 12:00

Resource Person(s): Claudia Odom, Budget and Management Services Director

County Manager's Recommendation: Direct staff on the date for the CIP review criteria process worksession.

The Commissioners concurred to select January 20, 2000 for the CIP review criteria worksession. The worksession will last from 9:00 a.m. to 12:00 noon.

Closed Session

Commissioner Heron moved, seconded by Commissioner Bowser, to adjourn into Closed Session to discuss a personnel issue pursuant to G.S. 143-318.11(a)(6).

The motion carried unanimously.

Reconvene Into Open Session

Vice-Chairman Reckhow announced the Board gave the County Manager and County Attorney directions in Closed Session.

Adjournment

Vice-Chairman Reckhow adjourned the meeting at 1:50 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board